



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,455	11/26/2001	Donald L. Mobley	8266-0740	7793

7590 04/26/2004

Timothy E. Niednagel  
Bose McKinney & Evans LLP  
135 N. Pennsylvania Street, Suite 2700  
Indianapolis, IN 46204

EXAMINER
----------

SY, MARIANO ONG

ART UNIT	PAPER NUMBER
----------	--------------

3683

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	Application No. 09/992,455	Applicant(s) MOBLEY ET AL.	
	Examiner Mariano Sy	Art Unit 3683	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 05 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see continuation sheets.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 11 and 13-15.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-10, 12 and 21-27.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: Notice of References Cited (PTO-892)

***Response to Amendment***

1. Acknowledgement by the examiner of the Amendment After Final filed on April 5, 2004.

Examiner maintains the rejection is proper.

Examiner disagrees with the applicant's explanation of claims 21, 25, and 26 rejected under 35 U.S.C. 112, second paragraph. Claims 21, 25, and 26 disclose a hole 96 in the base frame aligned with a hole 96 in the first external side wall abutting the base frame. However if you look at fig. 4 (upper right side hex shaft 54), a hole 96 (which is not recited on the claims) is needed on the external side wall facing opposite the first external side wall in order for shaft 54 to be able to pass through mounting tube 38 and the base frame.

Claim 21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

As for Claim 1, the rejection still stand even after applicant amended on line 9 "and to directly contact". In the Final Rejection dated "02022004" page 10, par. 12, lines 4-9 "Hall '064 disclosed a direct contact between mounting tubes 40,44 and caster sleeve 54".

As for claims 5 and 6, the rejections still stand. Wisecarver teaches, as shown in fig. 1-3, the use of a square mounting tube 1 and bushing 6 of cylindrical interior fixed inside the square mounting tube. One of ordinary skill in the art would have merely modify the square mounting tube of Hall with a cylindrical interior, which is well known in the joint and connection arts between sliding mating parts, in order to slide freely the

Art Unit: 3683

cylindrical sleeve of a caster and to have a larger bearing areas between the mating parts.

As for claim 7, rejection still stand. Applicant argued in the remarks on page 11, fourth paragraph stated Claim 7 clearly requires “a plurality of set screws configured to orient the plurality of casters” in combination with a mounting tube “connected to the base frame by welds located adjacent the first external side wall”. This is not what was recited in claim 7. Applicant’s argument is more specific than the claim language.

Examiner takes Official Notice that it is old and well known to use rivets and welding together. Sather (U.S. Patent Number 5,310,482) teaches the known combinations of rivets and welding can be used in joining between a support member and a frame, see col. 7, lines 9-14.

As for claim 12, rejection still stand. Applicant’s argument, that Wisecarver ‘394 is non-analogous art. Examiner disagrees since Wisecarver ‘394 teaches a type of connector using a cylindrical bushing fixed to square interior of square tubing to receive a round rod to support a load. Modifying Hall’s mounting tube with a square interior wall to a cylindrical wall to receive a cylindrical sleeve is a type of connector to support a load, i.e. bed frame. It would have been obvious to one of ordinary skill in the art to make a change in shape on the basis of suitability for the intended use as a matter of design choice. In re Dailey, 149 USPQ 47 (CCPA 1976). The word “forming” is a relatively broad term. Wisecarver teaching is one known type of connector.

Examiner takes Official notice that it is old and well known of using a square tubing with thick wall by cutting a cylindrical cross-section through the square interior

Art Unit: 3683

wall to receive a cylindrical sleeve of a caster is another type of connector. It is a matter of design choice wherein both types of connector recited above that have the same intended function of sliding freely and large bearing areas between the mounting tube and sleeve.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 703-308-3427. The examiner can normally be reached on Mon.-Fri. from 9:00 A.m. to 3:00 P.M.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



M. Sy

April 16, 2004



JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600